

**MARYLAND DEPARTMENT OF THE ENVIRONMENT  
U.S. ENVIRONMENTAL PROTECTION AGENCY REGION III**

**FFY 2005/06 PERFORMANCE PARTNERSHIP AGREEMENT**

**I. Purpose, Benefits and Scope**

Since 1995, the U.S. Environmental Protection Agency (EPA) has supported the National Environmental Performance Partnership System. The purpose of this system is to develop partnership approaches between the States and EPA that would provide improved environmental outcomes, opportunities for joint goal setting and combined resource utilization, increased flexibility for states in targeting their environmental programs, and increased administrative benefits.

The Maryland Department of the Environment (MDE) and EPA have chosen to express their partnership efforts through Performance Partnership Agreements (PPA). This PPA will enable MDE and EPA to more effectively focus their limited resources on programs and projects that are most likely to result in significant environmental and human health protections.

The Partners enter this agreement with the following process-oriented objectives:

- enhancing programmatic planning, environmental monitoring and permitting;
- increasing emphasis on efficiency, flexibility and innovative approaches in MDE programs;
- increasing emphasis on meaningful measurement of the environmental results of MDE program activities; and
- improving communication and, in particular, the degree of interaction between EPA and MDE on Maryland environmental priorities and high-visibility events of special interest to the State.

**II. Agreement Partners**

This Agreement is between the Maryland Department of the Environment and the U.S. Environmental Protection Agency Region III.

**III. Strategic Priorities, Goals, and Approaches**

To support achievement of federal and state air-quality, water-quality, and waste-management goals and requirements, and to sustain the region's environment, communities, and quality of life along with a growing economy, EPA and the Region III states have adopted the following three strategic priorities:

- Watershed Restoration
- Enhancing Environmentally-Responsible Development
- Reducing Environmental Exposure to Citizens Including Sensitive Populations

In addition, the FFY 2005/06 PPA documents EPA's and the State's commitment to two strategic approaches that the parties agree are key to enabling Maryland's achievement of the goals associated with each of the three priority areas:

- innovative approaches to environmental management, and
- multi-state approaches to environmental improvement.

#### **IV. Agreements Addressing Regional Priorities**

In addition to many ongoing programs and projects, the partners agree to focus particular effort on the following areas:

##### **A. Watershed Restoration**

1. Cooperation on Databases: EPA will help MDE implement the Assessments Database and the National Hydrography Database for 303(d).
2. TMDL Guidance for Local Governments: MDE and EPA will work cooperatively on future TMDL workshops; EPA will help MDE provide guidance material to local governments.
3. Wetlands Protection: EPA and MDE will continue to work cooperatively to improve regulatory and non-regulatory wetland management in Maryland. Efforts will focus on achieving "no net loss" of wetland acreage and function; improving voluntary wetland creation, restoration and enhancement; and establishing a wetland monitoring program.
4. Source Water Assessment and Protection: MDE will work aggressively to complete Source Water Assessments for all community and non-community public water systems. EPA and MDE will cooperate to improve application of regulatory and non-regulatory tools to promote protection of surface water and ground water sources of drinking water, in concert with other watershed protection objectives. (See also Section IV.E, Potomac Partnership)
5. Underground Storage Tanks (UST)/Source Water Protection Cross-Program Coordination: MDE and EPA will look for opportunities to coordinate and engage in activities that enhance the interaction between their UST and Source Water Protection Programs in order to augment the impact of their resources. In

addition, EPA agrees to assist MDE in the application of a modeling tool to help target inspections of USTs to drinking water protection areas defined in MDE's source water assessments.

B. Enhancing Environmentally-Responsible Development

1. Stormwater Funding Initiative: The State of Maryland has long recognized the need to establish dedicated fund sources (e.g., stormwater utilities or watershed utilities) in order to further its efforts to restore and enhance water quality. In 1992, MDE helped enact enabling legislation that allows localities to develop a "system of charges" to finance stormwater/environmental programs. To date, only a few local Maryland jurisdictions have taken advantage of this opportunity.

The State strongly encourages more local governments to pursue these approaches. Without such progress, Maryland may be unable to respond adequately to the growing need to implement watershed restoration programs (e.g., watershed assessments, monitoring, planning, retrofitting, restoration, protection, etc.), to meet water quality standards, and to ensure the State meets specific TMDL and Chesapeake Bay Watershed Goals. Local governments require support and guidance to establish these dedicated environmental funding mechanisms. EPA agrees to look for ways to promote these approaches at the local level and to work closely with the State in carrying out this effort.

2. Best Available Technologies (BATs) for On-Site Disposal Systems (OSDS): EPA supports MDE's efforts to establish BATs for OSDS, to explore means of implementing appropriate levels of management to assure efficient operation of OSDS in perpetuity, and to certify BATs as grant eligible under the Bay Restoration Fund.

C. Reducing Environmental Exposure to Citizens Including Sensitive Populations

1. Scientific Understanding of Issues Relating to Fine Particulate Matter: EPA and MDE will work together to improve the scientific understanding of issues relating to fine particulate matter.
2. Environmental Benefits Districts (EBDs): Maryland has created EBDs in three disadvantaged areas - Park Heights, Central Prince George's County, and East Baltimore. EPA recognizes these areas as deserving targeted attention, and pledges to support MDE's efforts in these three as well as in other EBDs that may warrant such designation.
3. Distributed Generation: MDE is concerned about air emissions from distributed generation, an option offered by electric distribution companies which involves using highly polluting small, sometimes portable diesel engines to generate

electricity for use on site during times of peak electrical demand. This allows the electric utility to more easily meet its power demands, but creates potentially significant air emissions issues. EPA will work with MDE to develop a method for obtaining information from the electric distribution companies about who is participating in this program.

4. UST Inspections: MDE is developing regulatory changes that will require third-party compliance inspections of regulated motor fuel facilities' petroleum underground storage tanks (USTs). These inspections will supplement the Department's current compliance activities for this regulated sector. EPA will consider ways to credit these third-party inspections toward the Department's demonstration of compliance with its Underground Storage Tank Cooperative Agreement grant commitments. EPA intends to notify MDE prior to taking enforcement actions at Maryland UST sites, and to consult with MDE on the appropriate enforcement response.
5. One Cleanup Program: The parties will develop an MOU to initiate a One Cleanup Program for MDE's CERCLA and RCRA programs. The Elk Neck one-cleanup project has been successful, and expanding this effort would assist in coordinating remedial activities across current program responsibilities and would provide certainty and consistency for diverse sites requiring cleanup. EPA agrees to assist MDE in evaluating other states' MOUs for this type of program and identifying applicability in Maryland.
6. Baltimore School District Partnership: Baltimore City School District was selected as a field test site for the Healthy School Environmental Assessment Tool (Healthy SEAT). Healthy SEAT is an assessment tool that will assist states and school districts in identifying and addressing environmental health and safety issues as well as introducing EPA programs that can provide healthier learning environments. This tool can be customized to include specific State requirements for the school district. MDE and EPA agree to partner with the MD State Department of Education, the MD Department of Health and Mental Hygiene, and the Baltimore School District to customize the Healthy SEAT tool, and to work with the District to address some of the environmental issues that are found as a result of the environmental assessment.

D. Innovative Approaches to Environmental Management

1. Environmental Management Systems: EPA will actively support MDE's efforts to promote development and implementation of EMSs by Maryland facilities.
2. State Agency Compliance: EPA will provide technical support, and financial assistance if possible, for MDE's State Agency Compliance Assistance initiative.

3. Compliance Assistance and Inspections: EPA and MDE will work collaboratively to resolve issues associated with the extent to which EPA will credit MDE's multi-media inspections and compliance assistance activities. The partners will develop a plan:

- a) for providing "credit" to MDE for multi-media inspections conducted as part of innovative projects; and

- b) for resolving issues associated with the reporting of compliance assistance activities, consistent with National policy and complementary to MDE program needs.

The parties also agree to work together to implement the recommendations identified during the Compliance Assurance State Review which was conducted by USEPA in 2004.

4. Electronics Recycling: To support Maryland's ongoing, successful efforts in this area, EPA agrees to assist MDE in finding necessary information including current reliable studies on whether consumer electronics present an unacceptable risk to public health and the environment if not properly recycled. EPA also agrees to help MDE find funding opportunities to continue supporting the State's successful electronic recycling efforts, particularly by supporting local government electronics recycling programs.
5. Disaster Management and Recovery: Maryland, along with other states, has embarked on heightened efforts to ensure disaster preparedness and recovery in the event of an unfortunate occurrence (i.e. natural disaster, security threat, or major local emergency response incident). The partners agree to work together to draft clean-up priorities and standards for the removal of contaminants after major events, and to discuss how EPA can help in scheduling and providing administrative and scientific support during ongoing recovery efforts.

#### E. Multistate Approaches to Environmental Improvement

Potomac Partnership: MDE and EPA agree to work cooperatively with state agency colleagues from Pennsylvania, Virginia, West Virginia and the District of Columbia; other Federal agencies; water utilities that draw water from the Potomac River watershed; and nongovernmental organizations from throughout the watershed, in support of the Potomac Drinking Water Source Protection Partnership, established in September 2004. The Potomac River, its tributaries, and its ground water aquifers serve as the water supply for more than 5 million people, and these are vulnerable to contamination by upstream activities. To protect public health, the Partners have committed to develop strategies to optimize protection activities within the watershed to enhance drinking water quality and safety.

## **V. Operating Principles**

### **A. Communication and Consultation**

Following the established policy of "no surprises" between partners, EPA agrees that it does not intend to take enforcement actions in Maryland without providing MDE with at least two weeks' advance notice.

2. Region III will use the consultative process and communicate directly, in a coordinated manner, regarding issues that are of specific interest to MDE.
3. The Partners further agree to communicate on a regular basis; to conduct Leadership meetings with key officials to discuss overall progress of the activities outlined in the Agreement; and to lay the foundation for electronic, shared access to relevant information developed within this Agreement.

### **B. Dispute Resolution**

The Partners are committed to timely resolution of disputes. The Partners agree to treat the resolution process as an opportunity to improve joint efforts. Sincere attempts should be made to resolve disputes at the staff level. Where disputes cannot be resolved within a two-week period, each Partner shall elevate the issue to a higher equivalent level in comparable fashion in each organization.

### **C. Burden Reduction**

The Partners agree to continue implementing the recommendations of the FY1999/2000 Reporting Workgroup and to track progress. EPA agrees to pursue the MBE/WBE reporting issues and to seek help in reducing/refining the data collection and reporting burden on states. The Partners agree to inform their respective program staff of the need to identify potential opportunities for reporting burden reduction during grant negotiations and through the annual programmatic review process. Program staff shall be encouraged to look for innovative ways to streamline reporting so long as core regulatory requirements are met.

## **VI. Administering the Agreement**

The Partners shall assign lead staff contacts for each issue identified in the PPA. The lead staff contacts will be responsible for developing a baseline for measuring success, creating a strategy for effective use of resources, implementing agreed-upon commitments, and reporting progress to Senior Management.

EPA and MDE agree that nothing in this Agreement should be read or construed to

abrogate or alter responsibilities, authorities and procedures conferred upon each by statutes, regulation or delegation. Further this Agreement does not replace or supersede current grant or authorization agreements entered into previously between EPA and MDE. It does, however, define principles and priorities for the development of future grant and authorization agreements between EPA and MDE.

Finally, nothing in this Agreement shall impede either agency's authority to initiate enforcement actions. This document is intended solely as guidance for employees of EPA and MDE. It is not a rule and does not create any legal obligations or rights.

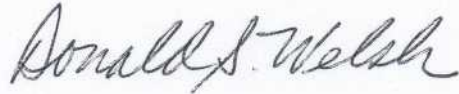
## **VII. Time Frame**

This Agreement covers the period from July 1, 2005 to September 30, 2006 unless amended or extended by mutual consent.

## **VIII. Responsible Officials**



Kendi P. Philbrick  
Secretary  
Maryland Department of  
the Environment



Donald S. Welsh  
Regional Administrator  
U.S. Environmental Protection  
Agency Region III